

**CITY OF SOUTH LEBANON
SPECIAL MEETING MINUTES
September 26, 2023
6:00 P.M.**

1. Mayor Smith opened the meeting at 6:00 p.m. with the Pledge.

2. ATTENDANCE

Linda Allen – Present
Linda Burke – Present
Brenda Combs – Present

Maryan Harrison – Present
Bill Madison – Present
Rolin Spicer – Present

NEW BUSINESS

3. DISCUSSION RE: RULES AND REGULATIONS OF POLITICAL SIGNS AND ADVERTISING WITHIN THE CITY OF SOUTH LEBANON

Andrew Meier stated that as he indicated at the last meeting there were some requests to look into the issue of campaign signs on public property. In Ohio there is no specific statute that provides an answer one way or another on this particular issue. The city ordinances and zoning regulations do not specifically address the issue either. If the council does decide to do something it would need to be in the form of an ordinance and based on his research, it would be either one extreme or the other. There would need to be a strict prohibition of signs on public property or alternatively you would have to let all signs be on public property.

In 1967 there was an Ohio Supreme Court case in which there was a challenge to a municipal ordinance that prohibited all political signs within any area of the municipality, both public and private property. The Ohio Supreme Court said that was unconstitutional because on private property people are allowed to express their opinions on speech, under the 1st amendment and the 14th amendment of the United States Constitution and under the Ohio Constitution. The Ohio Supreme Court also said that municipalities may enact ordinances prohibiting the attachment of political posters to public property and permitting the recovery of costs for removal of such posters. In this case the Ohio Supreme Court suggested that there can be prohibitions on political signage or other signage on public property. The theory is that when there is signage on city owned property that could be viewed as government endorsed speech. From his perspective this may not be the best perception to push out into the public.

The United States Supreme Court in a case that was decided in 1984 basically held that a municipal ordinance prohibiting posting of signs on public property was not unconstitutional as applied to those individuals. In other words, the individual who took issue with a particular city ordinance in this case had political signs on light posts, and other areas within the city that were on public property and the city had an ordinance that prohibited that and city workers took down those signs and the individual who had put the signs up sued the city saying that you cannot take my signs down as this is

unconstitutional. The United States Supreme Court went through a lengthy analysis and concluded that a municipality does have the constitutional right to prohibit those types of signs on city property.

So, under both Federal Law and Ohio Law you would be within your rights to pass an ordinance strictly prohibiting signage on city property, including political signs. You would also be within your rights to pass an ordinance allowing all signage on city property

He did consult with outside counsel as well, Catherine Cunningham, and they talked through and analyzed what he just explained, and she has advised other municipalities who have addressed this issue to do a strict prohibition because of the perception that could be created with political signs on public property. His opinion would be to pass an ordinance strictly prohibiting it, that would be the best practice, however it is up to everyone on the Council how they want to pursue this issue.

If the Council would like him to prepare an ordinance one way or the other, indicate that and he can have that ordinance ready for the Council's consideration at a special meeting if they deem that necessary or at a regular meeting.

Prohibition would have to be strict, meaning no signs on public property, period. If you allow some signs and not others, then you run into a constitutional problem because you are regulating the content of the speech. It must be all or nothing.

Madison asked if the city would be immune from this and Meier remarked that the city could be sued. Clarification was given on the scrolling sign in front of the Municipal Building not being an issue as it provides information that is also provided on our website. Informational signs regarding events would not be a problem. Meier reiterated that political campaign signs or issues that will be on a ballot are the issues. Madison stated that his concern is the city's interest: city sponsored events, public communications, if they would be exempt. Meier remarked that the prohibition would be on something that could be construed as government endorsed speech.

Burke stated, on the record, that she finds the timing of this to be interesting as she is running for mayor. In the past 30 years there have been no prohibitions on political signs in the city. She was told last Monday that her signs, along with other candidate's signs, had been taken down all over the city. There has never been an ordinance for this and the only reason this is being brought up now is because she is running for mayor. She has run for 2 council elections and none of her signs were ever touched or anyone else's. Mayor Smith stated that this is nonsense. He further shared how the city sends crews out every Monday morning to remove any signs in the right-a-ways, on city property, or in the way of mowing. They are removed for safety. Combs shared how she had this happen to 3 of her signs during her last election; they were removed and when she asked, she was told where she could pick them up at. Madison stated that he has been involved since 2006 and he's had several signs taken down as well and he has just gone and picked them back up. Madison asked Meier who had made the inquiry to have this looked into

to which Meier stated it was Burke. Madison added that besides this inquiry no one has ever had an issue.

Allen stated that this has never come before the council before. This would limit everyone in our community; everyone would be affected. We need to consider the community.

Harrison shared that recently she had a sign tie cut; however, the sign was not taken. We've all had these things happen to us.

Spicer remarked that if you make it to where you cannot put signs in public positions it turns political races into popularity contests where they are just in people's lawns, and you cannot put your signs out for the community to see.

Mayor Smith asked if anyone wants signs on the city property, like billboards.

Burke stated that this will not only affect the local races but also the statewide and national elections. She believes this is a clear violation of freedom of speech to all of us.

Burke made a formal request for Meier to create an ordinance for signs to be allowed on city owned property. Meier stated that he would create a draft and have it ready for the next council meeting.

OLD BUSINESS

Mayor Smith briefly spoke on the River Creek Lofts project which has been in development for the last 4 years. The council has approved every aspect up to this point; tonight, they will be voting on an ordinance that relates to the funding for the project. He stated that opinions were given at the last council meeting and tonight the developer will have the opportunity to cover or correct any inaccuracies that were made without any documentation to that process.

Sam Echuri, River Creek Lofts LLC, 1941 Alda Ct., Dayton, OH 45459 – Thanked everyone involved for their assistance with the project.

Ken Geis, Geis Consulting Group LTD, 5300 Socialville Foster Road, Suite 200, Mason – provided a slideshow presentation regarding the financials relating to this project. He began by stating that the County Auditor had spoken at the prior meeting and given his opinions. He wants to share some facts on what the project really is and how it differs from what the Auditor had said. There are 78 TIF's in Warren County. Geis stated that the Auditor had remarked that he believes in free markets, however when you look at the TIF's in Warren County you would not believe that. There are 15 TIF's in Warren County that were given to billion-dollar corporations. When you look at the TIF's in Warren County they do not promote a free market system.

Burke discussed the difference between Residential TIF's vs. Commercial TIF's and how Geis is only speaking about commercial. Further stating that we are adding rooftops that are going to affect our schools.

Geis continued, stating that the Auditor had previously stated that the apartments are taxed at a commercial rate, but they are really a Residential TIF. When you look at the Ohio Administrative Code 570325-10 it specifically talks about the classification of real property and coding of records. The Ohio Legislature identifies what is a Commercial TIF and what is a Residential TIF, this is a Commercial TIF. Discussion ensued regarding the impact on the school system and previous comments by Auditor Nolan. Geis acknowledged that there will be some students living in the apartments. He went on to give a comparison to how many students are living in Redwood Apartments region wide; that being 7-14 students per 100 units, however less than half are new to the district. Geis reiterated that the Auditor had stated that it takes a \$700,000 home to put 1 student through the Kings School District which would equate to \$11,382 per student. The River Creek Apartments in the 75% mode will generate \$398,000 which will be enough to pay for any new students. This project is not just for the apartments, this project is going to serve commitments that the city has already made; water main, driveways and turn lanes, forced main for the sewer, and the sewer lift station. The city has obligations if this does not pass. This project has been going on for 4 years, there was unanimous support for the Term Sheet, this property was rezoned to allow for this project. The council has known about this project and the commitments that were forthcoming on this for 4 years, there has been no surprise in any of this. Echuri has agreed to cooperate fully with the city in working out the least possible impact to the school district and to the county by having a 10-year TIF.

Mayor Smith reiterated the specifics of the project involving the infrastructure and the TIF.

Madison added that this project has low impact for the city in that the streets are private and will not be maintained by the city.

Debbie Casper, 413 Vista Ridge Drive, South Lebanon - asked questions regarding the financial slides to which Mayor Smith and Madison explained the breakouts. Geis explained what a 75%-25% TIF is. Madison added that this TIF is for the infrastructure; it is being built on our behalf and once it is built it will be turned over to the city. This is not taxpayer money going to infrastructure. Madison continued to explain that since the recession of 2008 banks are not loaning money for infrastructure projects so TIF's are becoming more popular.

Mayor Smith added that we have worked with the schools, and we have a great relationship with them. He continued by stating that the Economic Development Committee looked out for everyone's interest.

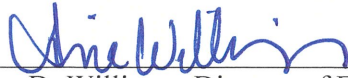
Burke stated that the only reason it was voted down at the September 21, 2023 Council meeting was because this is not an emergency and that is how it was being brought to the Council. If it had initially been brought to the Council as a 2 reading this would not be happening.

4. ORDINANCE 2023-29, SECOND READING, AN ORDINANCE DECLARING THE IMPROVEMENT TO CERTAIN PARCELS WITHIN THE CITY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION PURSUANT TO ORC 5709.40(B); PROVIDING FOR THE COLLECTION AND DEPOSIT OF SERVICE PAYMENTS AND SPECIFYING THE PURPOSES FOR WHICH THOSE SERVICE PAYMENTS MAY BE EXPENDED

A motion to amend Ordinance 2023-29 and remove the verbiage that it is being passed as an emergency was made by Madison, seconded by Combs, all yeas.

By title only, Ordinance 2023-29, a motion to adopt was made by Madison, seconded by Combs, all yeas.

5. Mayor Smith asked for a motion to adjourn the meeting at 7:05 p.m. A motion was made by Burke, seconded by Combs, all yeas.



Petrina D. Williams, Director of Finance/Clerk



James D. Smith, Mayor

For an audio copy of the September 26, 2023 City of South Lebanon Council Special Meeting, please contact the Director of Finance at twilliams@southlebanonohio.org.